Supreme Court, U.S.
FILED

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1995

RONALD E. OLSEN,

Petitioner

v.

PHILIP PALEY, et., al.,

ON PETITION FOR WRIT OF CERTORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELVENTH CIIRCUIT

AMENDED PETITION FOR WRIT OF CERTIORARI

RONALD E. OLSEN, Petitioner, In Propria
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43 pp

1. Should Superior Court judges be allowed to violate the Petitioner's Constitutional Rights with impunity by using the judiciary to protect obviously guilty and **attorney represented** public officials?

2. Should the District Court be allowed to intentionally violate the Petitioner's Constitutional Rights by condoning the Superior Court judges' use of the judiciary to protect obviously guilty and **attorney represented** public officials?

3. Should the Circuit Court of Appeals be allowed by allowed to violate the Petitioner's Constitutional Rights with impunity by intentionally overlooking the District Court's having allowed the use of the judiciary by the defendant Superior Court judges to protect obviously guilty and **attorney represented** public officials?

4. Should either the Superior Court judges, the District Court and/or the Circuit Court of Appeals be allowed to prejudicially rule against a party solely because they are Pro Se, representing themselves?

5. Should the Circuit Court of Appeals affirm a District Court's ruling when even the defendants' attorney, in this case the New Jersey Attorney General, can't defend the arguments used by the District Court in their dismissal?

6. Should either the District and/or Circuit Courts condone, and therefore encourage, obviously false allegations of sexual child abuse, the underlying situation of this case?

7. Should a Circuit Court of Appeals be allowed to purposely rule "without opinion" to cover up their inability to concur with the District Court's obviously prejudicial dismissal

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED FOR REVIEW i

TABLE OF AUTHORITIES iv

OPINIONS BELOW 1

JURISDICTION 3

STATUTORY PROVISIONS INVOLVED 4

STATEMENT OF THE CASE 7

The Circuit Court's denial of the Appellant's Motion for a Published Opinion 11

Actions of Defendant Judges as compared to alleged actions of Judges in famous "judicial immunity" cases 12

The Appellant's Motions to Amend 15

REASONS FOR GRANTING THE WRIT 17

QUESTIONS TO BE ANSWERED BY THE N.J. ATTORNEY GENERAL 18

CONCLUSION 20

TABLE OF AUTHORITIES

CASES

Page

Bradley v. Fisher,
13 Wall. 335, note at 349-350,
20 L.Ed. 646 (1871) 12

Clark v. Hogan,
49 Wash.2d 457, 303 P.2d 290 (1956) 4

Conley v. Gibson,
355 U.S. 41, 45-46 (1957),
2 L.Ed.2d 80, 84, 78 S.Ct. 99,
See Dioguardi v. Durning, 139 F.2d 774 5

Dioguardi v. Durning,
139 F.2d 774 (CA2 1944) 5

Gillespie v. Civiletti,
(CA9th 1908) 628 F.2d 637 5

Ginsburg v. Stern,
125 F.Supp. 596 (1954) 12

Manekas v. Allied Discount Co.,
6 Misc.2d 1079, 166 N.Y.S. 366 (1957) 5

Mirales v. Waco,
112 S.Ct. 286 (1991) 12

Pierson v. Sparkman,
435 U.S. 349, 55 L.Ed.2d 331 (1978) 13

Randall v. Brigham,
7 Wall 523, 539, 19 L.Ed. 285 (1686) 4

Scott v. Stansfield,
3 Ex. 220, 223 (1868) 12

Stump v. Sparkman,
435 U.S. 349, 55 L.Ed.2d 331 (1978) 13

Will v. Michigan Dept. Of State Police,
109 S.Ct. 2304, 2312, 105 L.Ed.2d 45 6

Yate v. Lansing,
5 Joh. 282, 9 Joh. 395 (1810) 12

PETITION FOR WRIT OF CERTIORARI

to the United States of

Appeals for the Eleventh Circuit

The petitioner respectfully prays that a writ of Certiorari issue to review the all of the decisions of the United States Court of Appeals for the Eleventh Circuit entered between March 22, 1995 and June 15, 1995 as detailed in below.

OPINIONS BELOW

On May 20, 1994, the U.S. District Court Dismissed the Plaintiff's Complaint with prejudice for alleged lack of jurisdiction over the person, alleged improper venue, and for allegedly failing to state a claim upon which relief may be granted, at app. 1-8.

On March 22, 1995, the 11th Circuit Court of Appeals

a. **AFFIRMED** the U.S. District Court's May 20, 1995 decision (app. 10),

b. **DENIED** the Appellant's Motion for Judgement (app. 11), and

c. **DECLARED MOOT** the Appellant's Motion to Amend record excerpts, (app. 12),

all were done without a written and/or published opinion.

On April 18, 1995, with uncharacteristic lightning speed, the 11th Circuit Court of Appeals denied the Appellant's April 15, 1995 Motion for a Published Opinion (at app. 13) again **without a written and/or published opinion.**

On June 1, 1995, again with uncharacteristic speed, the 11th Circuit Court of Appeals denied the Appellant's April 5, 1995 Motions for Rehearing and Suggestion for En Blanc Reconsideration (at app. 14) each **again done without a written and/or published opinion.**

On June 15, 1995, the 11th Circuit Court of Appeals denied the Appellant's June 6, 1995 Motion for Stay of Mandate Pending Petition for Writ of Certiorari (at app. 15) again **without a written and/or published opinion.**

On June 15, 1995, the 11th Circuit Court of Appeals issued a mandate in this case (at app. 16).

JURISDICTIONAL STATEMENT

Supreme Court Rule 10 provides for Supreme Court review of cases where there are "special and important reasons" therefore, while Supreme Court Rule 10 (a) provides for Supreme Court review of cases in which,

> "a United States court of appeals has rendered a decision that is **a far departure from the accepted and usual course of judicial proceedings**, or sanctioned such a departure by a lower court, **as to call for this Court's power of supervision."**

The Petitioner alleges that the rulings in question of both the Circuit Court of Appeals and the District Court rulings against the Petitioner involve **"special and important" issues and are a"far departure from the accepted and usual course of judicial proceedings" and as such call for the supervision powers of the U.S. Supreme Court to correct what is already an obvious travesty and miscarriage of justice.** The Petitioner alleges that these rulings were made against the Petitioner solely because the was Pro SE, representing himself, in direct contradiction to the principles of law involved, which is in direct violation of the Petitioner's **Constitutional Rights to Due Process and Equal Protection under the Law** which is guaranteed to every citizen by **the Ninth Amendment to the U.S. Constitution,** in violation of **the Code of Judicial Conduct** which requires impartiality and avoidance of even the appearance of impropriety, and, in total, gross abuses of **judicial discretion**.

CONSTITUTIONAL PROVISIONS AND PRECEDENTS INVOLVED IN THE CASE

The **Ninth Amendment to the U.S. Constitution** guarantees that,

> "No person shall.....be deprived of life, liberty, or property without due process of law....nor deny to any person within it's jurisdiction the equal protection of the laws"

The **Code of Judicial Conduct requires that a judge be "faithful to the law and competent in it, operate with impartiality and that he avoid even the hint of impropriety"**

Well established **"judicial discretion" precedent requires a judge to be impartial**, see the following sample cases,

Randall v. Brigham, 7 Wall 523, 539, 19 L.Ed. 285 (1868) states,

"At common law, every person who is party to any judicial proceeding, has a right to be heard by a free, and independent judge, no man can be a judge in his own cause nor act in the double capacity of accusor and judge"

Clark v. Hogan, 49 Wash.2d 457, 303 P.2d 290 (1956) states,

"Judicial discretion" is sound judgment which is not exercised arbitrarily, but with regard for what is right and equitable under the circumstances and the law, and which is directed by reasoning conscience the judge to a just result."

Manekas v. Allied Discount Co., 6 Misc.2d 1079, 166 N.Y.S. 366 (1957) states,

> "Judicial Discretion" means discretion bounded by the rules and principles of law, not arbitrary capricious, or unrestrained. It is not the indulgence of a judicial whim, but rather the exercise of judicial Judgement, based on the facts and guided by law, or the equitable decision of what is just and proper under the circumstances."

Well established **U.S. Supreme Court precedent entitle a Pro Se Litigant to an unbiased hearing of his case and "benefit of a doubt",**

> "Dismissal should not be ordered without giving pro se plaintiff and opportunity to amend, and **all doubts must be resolved in favor of the pro se pleader**." Gillespie v. Civiletti, (CA9th, 1980) 629 F.2d 637.

> **"The United States Supreme Court** holds allegations of a pro se complaint to less stringent standards than formal pleadings drafted by lawyers. A pro se complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that he can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957), 2 L.Ed.2d 80, 84, 78 S.Ct. 99, See Dioguardi v. Durning, 139 F.2d 774 (CA2 1944).

In the Plaintiff's 9-18-93 Motion to Amend (Docket No.15) the Plaintiff asked permission to sue each of these three judges as individuals in addition to suing them in their capacity as a judge, based on the following **Supreme Court precedent**,

> "State officials sued for damages in their personal capacities are "persons" under section 1983 (U.S.C. Code) and therefor subject to suit." Will v. Michigan Dept. Of State Police, 109 S.Ct. 2304, 2312, 105 L.Ed.2d 45.

STATEMENT OF THE CASE

The District Court's May 20, 1994 Dismissal of the Plaintiff's Complaint was done prejudicially in favor of the defendant judges simply because they are represented by the New Jersey Attorney General's Office and against the Plaintiff solely because he was acting Pro Se, as his own attorney.

The Appellant addressed each and every argument of the District Court's dismissal in his July 30, 1994 Appeal Brief and showed that all three arguments included in the dismissal were simply a backdoor attempt by the District Court to cover-up their obviously prejudicial ruling.

The New Jersey Attorney General's Office chose not to submit a Reply Brief (at app. 9) but instead chose to "rely on the record below". **Their "relying on the record below" in this case meant their relying on lying, cheating and misrepresentation; "relying on the record" in this case did not address at all any of the arguments used by the District Court in their dismissal of the Plaintiff's complaint, the entire subject of the appeal!**

Never-the-less, **and even though the defense attorney couldn't defend the District Court's decision at all and even though the Circuit Court themselves can't explain how or why it happened,** on March 22, 1995 the Circuit Court of Appeals affirmed the District Court's decision without a written and/or published opinion.

If the Circuit Court's decision wasn't based solely on prejudice against the Pro Se Appellant,

a. why didn't the Circuit Court simply state that the District Courts' arguments regarding venue were correct?

Because they weren't!

b. why didn't the Circuit Court simply state that the District Court's argument regarding 'judicial immunity" are correct?

Because it wasn't!

c. why didn't the Circuit Court simply state that judges are omnipotent and can do anything to anyone, anytime they want to, regardless of the law?

Because they know to do so would be contrary to the **U.S. Constitution**, contrary to their own **judicial code of conduct**, and, in total, **a gross abuse of "judicial discretion"**!

d. why didn't the Circuit Court simply agree with the District Court's opinion that the Appellant's Motions to Amend would be "unduly burdensome to the existing defendants" as the District Court claimed?

Because this is obviously not true.

The Circuit Court of Appeals affirmation of the District Court's May 20, 1994 dismissal of the Petitioner's case without published opinion was prejudicially in favor of the judges simply because they are represented by the New Jersey Attorney General's Office and against the Appellant simply because he was representing himself Pro Se.

The Circuit Court of Appeals "affirmation" of the obviously prejudiced District Court ruling is another intentional violation of the Appellant's Constitutional Rights to Due Process and equal protection under the law, while doing so without "published opinion" was an admission that the Court couldn't justify their own ruling especially considering that the Appellant's case is more precedent setting than all of the famous "judicial immunity" cases in history.

Never before has the Supreme Court been faced with judges' admitted intentional and serious violations of a Petitioner's Constitutional Rights, as in the Petitioner's case against these three New Jersey defendant judges!

Never before has the Supreme Court been faced with a District Court's dismissal of a case on grounds that were so obviously prejudicial, **grounds that even the defense attorney couldn't defend!**

Never before has a Circuit Court of Appeals been caught purposely denying publication of an opinion for the obvious and prejudicial purpose of covering up their own prejudicial and Constitution violating decision which affirmed the absurd District Court dismissal and to save fellow judges the embarrassment that would result from published criticism of their intentional violations of the Pro Se Appellant's Constitutional Rights.

Never before has anyone been subject to such a gigantic conspiracy, a conspiracy of public officials, each hell bent on the Petitioner's arrest and conviction for something that everyone knew from the beginning he hadn't done, each prejudicially verifying each other's actions regardless of what they had done and in total disregard for the law. The Petitioner's total acquittal at trial verified his innocence.

Never before has anyone ever been so throughly discriminated against simply because he was representing himself. **It was not a matter of whose legal argument was better, it was automatically an opposition attorney's win, even if he could provide no defensive argument at all!**

Instead of a judge or appeal panel acknowledging the obvious accomplishments of this Pro Se Litigant, **they seem professionally jealous of him and prejudicially dismiss every case he enters, no matter how well his case is presented or how poorly the opposition "attorney represented" defendants do.**

THE CIRCUIT COURT'S DENIAL OF THE APPELLANT'S MOTION FOR A PUBLISHED OPINION

The Circuit Court's April 18, 1994 denial of the Appellants' Motion for Published Opinion, also without opinion, is an out and out admission that they were wrong and is nothing short of a direct deprivation of the Appellant's Constitutional Rights to due process and equal protection under the law, a direct violation of well established "judicial discretion" precedent, and in violation of their own Code of Judicial Conduct where they took an oath and swore to be impartial.

The Circuit Court's denial of the Appellant's Motion for a Published Opinion in an intentional attempt to avoid publishing a case that would show the intentional deprivation of the Appellant's Constitutional Rights to due process and equal protection under the law, not only by three New Jersey judges, but then by a District Court and then again by their own Appeal panel.

The Appellant alleges that the Circuit Court's denial of the Appellant's Motion for a Published Opinion was done solely because they could not put in writing arguments showing why they agreed with the District Court's dismissal nor could they point out which, if any, of the Appellant's arguments were wrong.

ACTIONS OF DEFENDANT JUDGES AS COMPARED TO ALLEGED ACTIONS OF JUDGES IN FAMOUS "JUDICIAL IMMUNITY CASES

As summarized in the Appellant's Motion for a Published Opinion and explained even more fully in the Appellant's Motion for Rehearing En Blanc, the allegations in the Appellant's case are far worse than any of the allegations in any of the famous "judicial immunity" cases, namely,

Scott v. Stansfield, 3 Ex. 220, 223 (1868), where a judge was accused of **petty slander.**

Mirales v. Waco, 112 S.Ct. 286 (1991), the only case cited by the District Court in their dismissal of the Plaintiff's case on the grounds of "judicial immunity" **even though it involved an attorney's petty allegations of simple battery against a judge.**

Yates v. Lansing, 5 Joh. 282, 9 Joh. 395 (1810), involved **petty allegations** that a judge technically violated a defendant's "habeas corpus" rights.

Bradley v. Fisher, 13 Wall, 335 note at 349-350, 20 L.Ed. 646 (1871), involved petty allegations that a judge unjustly banned an attorney from his courtroom because of a previous argument.

Ginsburg v. Stern, 125 F.Supp. 596 (1954), involved **petty allegations** that a state Supreme Court judge improperly dismissed a bar complaint against a fellow judge and other bar members.

Stump v. Sparkman, 435 U.S. 349, 55 LED.2d 331 (1978), involved **petty allegations** that a judge, who even though he had the mother's prior approval, was criticized for signing an order to sterilize the woman's "somewhat retarded" 15 year old daughter.

Pierson v. Ray, 386 U.S. 547, 554-555, 87 S.Ct. 669, 679, 18 LED.2d 288 (1967), involved **petty allegations** that a municipal police justice had made improper civil rights arrests.

Each and every one of these attorney represented plaintiff's with their **petty claims** against judges were allowed to prevail in appeal, **but the Appellant's case doesn't deserve to prevail?**

> **Might this have been simply because the Appellant was acting Pro Se, not being represented by an attorney?**

Each and every one of these **attorney represented plaintiffs** with their petty claims had their decisions published, **and the Appellant's case doesn't deserve to be published?**

> **Might this have been simply because the Appellant was acting Pro Se, not being represented by an attorney?**

The Circuit Court was simply trying to prejudicially preclude the Pro Se Appellant from setting precedent against fellow judges, no matter how well founded his case was.

No one can deny that the Appellant's case is both "precedent setting and important", a case where the defendant judges, who, by not answering the Appellant's Interrogatories have admitted virtually everything charged against them.

> the intentional signing of a bogus witness tampering charge against the Petitioner which was **done solely to show the Pro Se Litigant that the judge could do virtually anything he wants to do, and "fix him" for daring to try to represent himself in his courtroom,**
>
> the total elimination of the Appellant's rights to visitation with his children and access to their school records, **based solely on hysterically screamed, and totally unsubstantiated, allegations from the back of the courtroom by the Appellant's ex-wife,**
>
> the total ignoring of an ex-wife's repeated perjury, which included contradictory claims that she had $27,000.00 in reimbursable expenses, without any receipts at all and allegedly spend during a time she was unemployed, along with her total failure to fill out any of the required financial information to avoid showing interest from an eighth of a million-dollar inheritance the Plaintiff alleged she recently received, while at the same time she was requesting and increase in child support!

REGARDING APPELLANT'S MOTIONS TO AMEND

The District Court allegedly denied each and every one of the Plaintiff's Motions to Amend, suddenly and suspiciously alleging on May 20, 1994 that the Plaintiff's Motions to Amend which had been entered six months to a year before, **on September 18, November 8 and December 3, 1993** had technically violated their local rule 3.01 (a). **It took the court almost a year to point out technical violations of a motion? If the Court hadn't waited to tell the Plaintiff of the alleged technical problems until dismissing his complaint, six months to a year after he entered the motions, he would obviously have had a chance to do something about it!**

The Petitioner alleges that the alleged problems with the Plaintiff's Motions was more a frivolous back door attempt to explain the Court's prejudicial dismissal.

The District Court alleged also, vaguely and without obviously needed explanation, and even more suspiciously, that the Plaintiff's Motions to Amend would be 'unduly burdensome" to the existing defendants. **While, None of the Plaintiff's Motions to Amend had anything at all to do with the existing defendant judges.**

The Plaintiff's Motions to Amend were all unanswered (proof positive of the legitimacy of the Plaintiff's Motions) except one regarding a Prosecutor, dated December 31, 1993, who was alleged to be holding a falsely gotten "witness tampering" charge over the Appellant's head, **this charge is being dropped, which is proof positive of the legitimacy of this Motion.** Regarding a Motion to Amend dated March 1, 1994 alleging Obstruction of Justice between a Superior Court Judge and Clerks of the Court who sabotaged the Plaintiff's

appeal, **the Clerk of the Court and her assistant are no longer working at the Monmouth County Superior Court, proof positive of the legitimacy of this Motion.**

All of the foregoing arguments are more throughly detailed in the Appellant's Motion for Rehearing En Blanc regarding the Circuit Court's affirmation of the District Court's dismissal and the Appellant's second Motion for Rehearing En Blanc regarding the Circuit Court's denial of his Motion for a Published Opinion, both of which were denied without the slightest consideration.

REASONS FOR GRANTING THE WRIT

1. The Petitioner alleges that the decisions in question made by both the United States District Court and the United States Eleventh Circuit Court of Appeals, prejudicially in favor of the "attorney represented" defendant judges, **violated the Petitioner's Constitutional Rights to Due Process and Equal Protection of the Law as guaranteed every citizen by the Ninth Amendment of the U.S. Constitution,** because they were done,

a. without any regard for the law or what was right and just under the law,

c. **and in favor of the judges, because they are fellow judges and because they are represented by the New Jersey Attorney General and against the Petitioner solely because he is a Pro Se Litigant, representing himself.**

2. This writ should be granted to review the decisions in question **because of the Supreme Court's supervisory responsibility over lower courts.**

3. **Such repetitive and arrogant violations of the Petitioner's Constitutional Rights by Federal Courts cannot be allowed to stand. A judges whose responsibility it is to uphold the law cannot be allowed to use the law and their position of authority as a weapon against someone simply because that person is representing themselves in his court.**

QUESTIONS TO BE ANSWERED BY THE N.J.ATTORNEY GENERAL'S OFFICE

If the N.J. Attorney is going to respond to this position, which is very unlikely, the petitioner asks that they address the following questions,

1. Specifically, what proof do you have that will contradict the Plaintiff's precedents which clearly show his venue was correct in the Tampa, Florida District Court?

2. Specifically, what proof do you have that "judicial immunity" would shield a judge from suit for intentional violations of a citizens Constitutional rights?

3. Specifically, what proof do you have that the defendant Superior Court judges didn't violate the petitioner's Constitutional rights?

4. Specifically, how are the Petitioner's Motions to Amend "unduly burdensome" on the existing defendants, as the District Court claims?

5. Specifically, what was the District Court's alleged " justifiable reason(s)" for disallowing the Plaintiff's Motions to Amend?

6. Please explain specifically why the District Court's waiting almost a year to point out technical violations regarding the Plaintiff's Motions to Amend shouldn't be considered simply something the Court used frivolously in an attempt to explain their otherwise fraudulent decision against the Petitioner?

7. Specifically, why shouldn't the District Court's

dismissal of the Plaintiff's case be considered prejudicial and in violation of the Plaintiff's Constitutional rights?

8. Specifically, what proof do you have that the District Court's May 20, 1994 Dismissal wasn't in fact timed by, and specifically in reaction to, the Plaintiff's April 26, 1994 Motion to Strike the Defendants' improper filing of an affidavit in answer to the Plaintiff's April 16, 1994 Motion to Compel Answers to Interrogatories?

9. Specifically, why shouldn't the Circuit Court of Appeals affirmation "without opinion" of the District Court's dismissal be considered an admission that they can't in "good faith" agree with the District Court's dismissal arguments or point out any problems with the Plaintiff's counter-arguments and as such be both prejudicial against the Appellant and in violation of his Constitutional rights?

10. Specifically, what proof can you supply that the Circuit Court refusal to publish an opinion in this case is not totally prejudicial, purposely done to cover up their Constitutional violating affirmation, to shield the District Court's Constitutional violating and totally bogus dismissal and to shield also the defendant Superior Court judges from criticism for their intentional violations of the Constitutional rights of the petitioner?

11. Why shouldn't defendant judges who are being actioned as individuals, in addition to being sued as judges, be able to be sued?

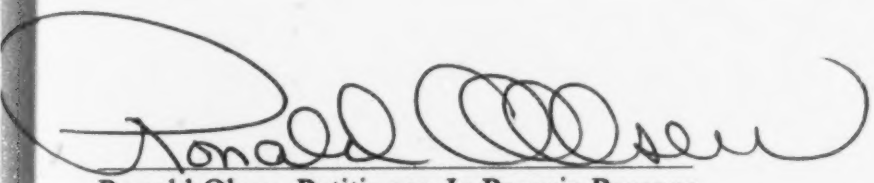
12. Is there any specific reason why this Writ of Certiorari shouldn't be granted?

CONCLUSION

For the foregoing reasons the petition for a writ of certiorari should be granted.

Dated, August 22, 1995

Respectfully submitted,



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APPENDIX

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FILED
94 May 20 PM 4:32

RONALD OLSEN

Plaintiff

v. CASE NO. 93-827-CIV-21C

PHILIP PALEY, JACK LINTNER, BARNETT HOFFMAN, jointly and severally

Defendants

_____/

ORDER

This cause is before the Court on the following pending motions: Defendants' motions to dismiss and to appear pro hac vice (Dkts. 6, 8);[1] Plaintiff's motion to strike Defendants'

---

1 Although the above-referred documents are captioned as affidavits of Defendants' counsel, the documents indicate that Defendants are intending thereby for dismissal and for admission pro hac vice. Counsel should consult Local Rule 3.01 (h), M.D. Rules, for proper designation of motions to dismiss. The motion to dismiss and for admission pro hac vice that was submitted on behalf of Defendant Paley has been assigned court docket number 6; the motion to dismiss and for admission pro hac vice that was submitted on behalf of Defendants Lintner and Hoffman has been assigned docket number 8.

motions to dismiss (Dkt. 9); and Plaintiff's various motions to amend his Complaint (Dkts. 15, 16, 19, 20, 30).

Defendants submitted a memorandum (Dkt. 7) in support of their motions to dismiss;[2] and Plaintiff filed several documents in opposition to such motions (Dkts. 9, 10, 13).[3] Plaintiff submitted a memorandum (Dkt. 10) in support of his motion to strike, but has failed to submit memoranda in support of the various motions to amend, as required by Local Rule 3.01 (a), M.D. Fla. Rules.[4] Defendants filed a response (Dkt. 17)[5] in opposition to one of Plaintiff's motions to amend (Dkt. 16).

---

[2] Defendants Lintner and Hoffman, in their motion to dismiss (Dkt. 8), adopted the memorandum of law (Dkt. 7) submitted by Defendant Paley.

[3] The above-referred documents submitted by Plaintiff are: Opposition to Defendants' Motion to Dismiss "In Lieu of Answer" and Plaintiff's Motion to Strike (Dkt. 9); Memorandum of Law in support of Plaintiff's Opposition to Defendants' Motion to Dismiss "In Lieu of Answer" and Plaintiff's Motion to Strike (Dkt. 10); and Memorandum of Law Addressing "Cause of Action and "Judicial Immunity" (Dkt. 13). Local Rule 3.01 (b) Middle District of Florida Rules, allows a party to submit a legal memorandum with citation of authorities in opposition to the relief requested in any motion opposed by that party, and such Rule prohibits the filing of any other legal memorandum in opposition to the same motion "unless requested by the Court." Although the Court did not request the filing by Plaintiff of any documents in addition to his initial filing in opposition to the motions to dismiss, the Court will not, Plaintiff is advised that he must comply with all the rules applicable to his submissions with this Court, including the Federal Rules of Civil Procedure and the Local Rules of the U.S. District Court for the Middle District of Florida. A copy of the Local Rules are available for purchase through the Clerk's office.

[4] One of Plaintiff's motions to amend contained two case citations. Such citations in the motion do not, however, satisfy the requirements of Local Rule 3.01 (a).

[5] Although Defendants's response was again in the form of an affidavit, and was not in the form of a memorandum of law with citation of authorities, see Local Rule 3.01 (b), M.D. Rules, the Court will not, in this instance, strike such response from the file. See Local Rule 1.01 (c), M.D. Fla. Rules.

Plaintiff submitted a response (Dkt. 18) to Defendants' above-referred response, although the Court did not request such additional submission.[6] See Local Rule 3.01 (b) (prohibiting the filing of documents directed to a motion beyond the filing by the movant of a memorandum in support of a motion, and a memorandum in opposition by parties opposing the relief requested in a motion).

BACKGROUND

Plaintiff filed an eight-count Complaint (Dkt. 1) in this action, purporting to assert claims against three New Jersey state court judges. In Counts I and II, Plaintiff alleges that Judge Jack Lintner, "in his capacity as Civil Court Judge," entered an order on January 3, 1991 that "took away the Plaintiff's parental visitation rights with his sons," and "took away completely the Plaintiff's parental rights to his sons' academic records," in violation of his constitutional rights. Count III alleges that Defendant Judge Lintner and others caused Mrs. Olsen, presumably Plaintiff's estranged or former wife, to charge Plaintiff with child molestation by leading "her to believe she would get her way in Court against the Plaintiff no matter how ridiculous he request or statement.

Judge Philip Paley is the subject of Counts IV and V. Plaintiff alleges that Defendant Paley, "in his official capacity as a Civil Court Judge," signed an order on April 27, 1992 without requiring adequate documentation of certain expenses claimed by Mrs. Olsen. The nature of the allegedly offending order is not specified. Plaintiff also alleges that Judge Paley's actions caused Mrs. Olsen to charge him with child molestation.

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[6] Once again, in this instance, the Court will not strike the additional, unauthorized submission of Plaintiff. See Local Rule 1.01 (c), M.D. Fla. Rules.

Counts VI through VIII are directed to Judge Barnett Hoffman, acting "in his capacity as Criminal Judge." Count VI alleges that Plaintiff's constitutional rights were violated by an order entered by Defendant Judge Hoffman on December 20, 1991 that "withdrew the Plaintiff's Constitutional Right to use his half interest in the former marital home as bail." In Count VII, Plaintiff alleges that Defendant Judge Hoffman violated Plaintiff's constitutional rights by signing, on September 28, 1992, a "fraudulent 'tampering' charge against the Plaintiff inspired initially by Mrs. Olsen." Count VIII alleges that Judge Hoffman is also to blame for the child molestation charge made against him by his wife.

The Complaint concludes with a general allegation that the Defendants violated his constitutional rights, and requests punitive damages in the amount of $10,000,000 from each Defendant, "for a total in excess of $30,000,000," in addition to compensatory damages.

DISCUSSION

Each of the above-referred motions will be addressed individually. As described more fully below, Defendants' motions to dismiss and to appear pro hac vice are due to be granted, and Plaintiff's motion to strike Defendants' motion to dismiss and his motions to amend are due to be denied.

Defendants' motions to appear pro hac vice - Don E. Catinello, a Deputy Attorney General for the State of New Jersey, has filed motions to appear pro hac vice as counsel for Defendants. He represents to the Court that he is a member of the bar of a federal district court in New Jersey, and requests that the Court waive the requirement that nonresident counsel designate local counsel.

Counsel has met the requirements of Local Rule 2.02, M.D. Fla. Rules, and may appear specially and be heard in this case with formal or general admission to the bar of this Court. It also appears that good cause exists for waiving the designation requirement of the above-referred Local Rule. Counsel is reminded that, by virtue of his special appearance in this Court, he shall be deemed to be familial with the Local Rules of the U.S. District Court for the Middle District of Florida, and shall be governed thereby. Local Rule 2.02 (c), M.D. Fla. Rules.

Defendants' motion to dismiss - Defendants assert that this case should be dismissed because this Court lacks personal jurisdiction over the Defendants, because venue does not lie in this Court, and because the Complaint fails to state a claim upon which relief can be granted.[7] Plaintiff opposes the first two grounds for dismissal by contending that it would be unnecessarily expensive and inconvenient for him to have to travel to New Jersey to pursue "this matter," and that the alleged actions occurred while he resided in Florida.

It is apparent that the Complaint does not adequately allege facts to indicate that the Defendants have sufficient contacts with the State of Florida to support personal jurisdiction over the Defendants. Nor does it appear from the Complaint that venue is proper in this District; the events alleged clearly did not occur in Florida, and none of the Defendants are alleged to reside in Florida. 28 U.S.C. 1391 (b). Neither of

---

[7] Defendants alos assert that the counts against Judges Lintner and Hoffman should be dismissed based on the principles of res judicata and collateral estoppel. Because of the disposition of the motion on other grounds, however, this assertion will not be addressed.

Plaintiff's objections to the Defendants' contentions that personal jurisdiction is lacking and venue is improper has any merit, and this case should be dismissed for lack of jurisdiction over the person and improper venue.

Moreover, the doctrine of judicial immunity clearly applies in this case. The Defendants are alleged to have acted in their capacity as state court judges, and such actions are the basis of Plaintiff's claims. The allegations in the Complaint, described above, establish that the judges were not acting in complete absence of all jurisdiction. See Mirales v. Waco, 112 S.Ct. 286 (1991) (holding that judicial immunity is inapplicable only to actions not taken in the judges judicial capacity, and to judicial actions taken in the complete absence of all jurisdiction). Therefore, it appears to a certainty that Plaintiff would not be entitled to recover under any state of facts which could be proved in support of his claim, Cook & Nichol, Inc. v. Plimsoll Club, 451 F.2d 505, 506 (5th Cir. 1971); accord Conley v. Gibson, 355 U.S. 41, 47-48, 78 S.Ct. 99, 103, 2 L.Ed.2d 80, 85-86 (1957), and the Complaint should be dismissed for failure to state a claim upon which relief may be granted.

Plaintiff's motions to amend - Plaintiff filed a number of motions to amend his complaint. In each motion, he seeks to add new defendants to the action. Plaintiff seeks to assert claims against each of them for actions taken either as a judge, a court official, a prosecutor or a witness at a trial.

Local Rule 3.01 (a), M.D. Fla. Rules, provides:

In making any written motion or other application to the Court for the entry of an order of any kind, in civil and criminal cases (other than those made in criminal cases at Omnibus Hearings), the moving party shall file and serve with such

motion or application a brief or legal memorandum with citation of authorities in support of the relief requested.

Plaintiff has not filed a memorandum in support of any of the motions to amend. Moreover, none of the motions contain a statement certifying that Plaintiff has conferred with opposing counsel in a good faith effort to resolve the issues raised by the motions. Such statement is required to be filed with each of the motions to amend. Local Rule 3.01 (g), M.D. Fla. Rules.

Furthermore, the proposed amendments are unquestionably without merit as to the existing Defendants and the new parties Plaintiff seeks to add, and allowing them would be futile. The proposed amendments purport, inter alia, to reassert claims against the existing Defendants. In view of the grounds for the disposition herein of Defendants' motions to dismiss, allowing the proposed amendments would be unduly burdensome to the existing Defendants. Amendments need not be allowed if a justifying reason exists for disallowing them. See Nolin v. Douglas County, 903 F.2d 1546, 1550 (11th Cir. 1990) (providing that the futility of an amendment may considered by the court as grounds for denying a motion to amend). The motions to dismiss* should, therefore, be dismissed for movants failure to comply with local rules, and because allowing the amendment would be futile and would create undue prejudice for the existing Defendants.

Plaintiff's motion to strike - Plaintiff filed a motion to strike Defendants' motions to dismiss. In view of the fact that the motions to dismiss are due to be granted, the motion to strike such motions is not well-taken.

CONCLUSION

Upon consideration of the foregoing, it is **ORDERED AND ADJUDGED** that:

1. Defendants' motions to dismiss and to appear pro hac vice (Dkts. 6, 8) are GRANTED; Plaintiff's Complaint is **DISMISSED with prejudice** for lack of jurisdiction over the person, for improper venue, and for failure to state a claim upon which relief may be granted.

2. Plaintiff's motion to strike Defendants' motions to dismiss (Dkt. 9) is **DENIED**.

3. Plaintiff's various motions to amend his Complaint (Dkts. 15, 16, 19, 20, 30) are **DENIED**.

4. All other pending motions in this case are **DENIED as moot**.

DONE AND ORDERED, at Tampa, Florida, this 20th day of May, 1994.

"S/ Ralph W. Nimmons, Jr"
RALPH W. NIMMONS, JR.
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of record
Ronald Olsen, pro se

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September 1, 1994

Miguel J. Cortez
Clerk, United States Court of Appeals
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

Re: Olsen v. Paley, Dkt. 94-2717
DC Dkt. No. 93-00827 CIV-T-21C

Dear Mr. Cortez:

This is to inform you that the appellees in the above-captioned matter will not be submitting a brief, but will rely on the record below.

Thank you for your consideration.

Very truly yours,

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY

By: "s/Don E. Catinello"
Don E. Catinello
Deputy Attorney General

cc: Ronald Olsen, Pro Se

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

DO NOT PUBLISH

No. 94-2717
Non-Argument Calendar

FILED
MAR 22 1995

D.C. Docket No. 93-827-CIV-T-21C

RONALD OLSEN,

Plaintiff-Appellant,

versus

PHILIP PALEY,
JACK LINTNER,
BARNETT HOFFMAN,

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

(March 22, 1995)

Before HATCHETT, EDMONDSON and COX, Circuit Judges.

PER CURIAM:

Affirmed. See Eleventh Circuit Rule 36-1.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED

No. 94-2717

MAR 22, 1995

RONALD OLSEN,

Plaintiff-Appellant,

versus

PHILIP PALEY; JACK LINTNER; BARNETT HOFFMAN,

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

BEFORE: HATCHETT, EDMONDSON and COX, Circuit Judges.

BY THE COURT:

Appellant's motion for judgment is DENIED as moot.

"s/Jack W. Hatchett"
JACK W. HATCHETT, United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

DO NOT PUBLISH

No. 94-2717

FILED

Mar 22, 1995

RONALD OLSEN,

Plaintiff-Appellant,

versus

PHILIP PALEY,

JACK LINTNER,

BARNETT HOFFMAN,

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

ORDER:

Appellant's motion to amend the record excerpts is DENIED as moot.

"s/ Jack W. HATCHETT"
JACK W. HATCHETT, United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED

APR 18, 1995

No. 94-2717

RONALD OLSEN,

Plaintiff-Appellant,

versus

PHILIP PALEY; JACK LINTNER; BARNETT HOFFMAN,

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

ORDER:

Appellant's motion to publish opinion is DENIED.

"s/ Jack W. HATCHETT"
JACK W. HATCHETT, United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED

JUN 15, 1995

No. 94-2717

RONALD OLSEN,

Plaintiff-Appellant,

versus

PHILIP PALEY; JACK LINTNER; BARNETT HOFFMAN,

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

ON PETITION(S) FOR REHEARING AND
SUGGESTION(S) OF REHEARING EN BLANC

Before: HATCHETT, EDMONDSON and COX, Circuit Judges.

PER CURIAM:

The Petition(s) for Rehearing are **DENIED** and no member of this panel nor other Judge in regular active service on the Court having requested that the Court be polled on rehearing en blanc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the Suggestion(s) of Rehearing En Blanc are **DENIED.**

ENTERED FOR THE COURT:

"s/ Jack W. Hatchett"
JACK W. HATCHETT, United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED
JUN 15, 1995

No. 94-2717

RONALD OLSEN,

Plaintiff-Appellant,

versus

PHILIP PALEY; JACK LINTNER; BARNETT HOFFMAN,

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

ORDER:

The motion of appellant, Ronald Olsen for stay of the issuance of the mandate pending petition for a writ of certiorari is DENIED.

"s/Jack W. Hatchett"
JACK W. HATCHETT, United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 94-2717

RONALD OLSEN,

Plaintiff-Appellant,

versus

PHILIP PALEY,
JACK LINTNER,
BARNETT HOFFMAN,

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

(March 22, 1995)

BEFORE: HATCHETT, EDMONDSON and COX, Circuit Judges.

PER CURIAM:

Affirmed. See Eleventh Circuit Rule 36-1.

Judgment Entered: March 22, 1995

For the Court: Miguel J. Cortez, Clerk

By: "s/Karleen McNabe"
Karleen McNabe, Deputy Clerk

ISSUED AS MANDATE: June 15, 1995